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Remarks/Arguments

REJECTION UNDER 35 USC § 102

In the Office Action, claims 43-55 were rejected under 35 USC § 102(f) alleging that the applicant did not invent the claimed subject matter, citing the disclosure of US Patent Publication 2002/0151076 ("the '076 publication"). Applicant respectfully asserts that the rejection is in error and further requests that the rejection be withdrawn for the reasons set forth below.

Applicant notes that both the instant application which includes claims covering a novel gel relaxer and the '076 publication are commonly assigned to Large Scale Proteomics Corporation, Germantown Maryland, a wholly owned subsidiary of Large Scale Biology Corporation, Vacaville California.

Applicant also notes that both the instant application and the '076 publication both claim priority to provisional patent application SN 60/281,000 filed April 4, 2001 ("the provisional application"). The gel relaxer recited in the claims of the instant application is disclosed and shown in several drawings in the provision application. Applicant will gladly provide a copy of the provisional application to the Examiner upon request. The '076 publication names Anderson, Goodman and Wallgren as inventors. Neither the instant application nor provisional application SN 60/281,000 list Wallgren as an inventor. Applicant asserts that the rejection under 35 USC § 102(f) is in error because Wallgren is not listed as an inventor in the provisional application, clearly demonstrating his lack of inventive contributions to the gel relaxer of the instant application.

Further, the '076 publication is clearly identified as a continuation-in-part of the provisional application and includes numerous devices that work in concert to perform a variety of operations relating to gel staining, gel imaging and spot cutting. The gel relaxer of

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the instant application is disclosed in the '076 publication, but is not recited in any way shape or form in the claims. Since the claims are the basis of inventorship, it is unclear how Wallgren could be considered an inventor on non-claimed technology. Applicant asserts that there is no evidence in the '076 publication to support the assertion that Wallgren could be an inventor of the gel relaxer of the instant application. For this reason and others, Applicant respectfully requests that the rejection under 35 USC § 102(f) be rescinded.

Further, the '076 publication was filed six months after the instant application and a year after the provisional application. Since the provisional application and the instant application were both filed before the '076 publication, is it unclear how the '076 could be used as a reference under any paragraph of 35 USC § 102. For this reason and others, Applicant respectfully asserts that the rejection is in error and should be rescinded.

The undersigned has reviewed the employment records of the company and learned that Eric Wallgren, one of the inventors identified for the '076 publication, started working for the Assignee on February 20, 2001. Since the provisional application was filed on April 4, 2001 it is unclear how in so short a time, he could have contributed to an invention that was the subject of a provisional patent application only 5 weeks later.

The undersigned of his own knowledge, based upon activities with in Large Scale Biology Corporation and its subsidiary Large Scale Proteomics where these inventions were developed, asserts that Leigh Anderson and Jack Goodman are sole inventors of the invention recited in the claims of the instant application. Further, the undersigned was present when the various invention disclosures were provided by Leigh Anderson and Jack Goodman for the subject matter of the instant application and the provisional application. The undersigned was also present when Leigh Anderson, Jack Goodman and Eric Wallgren later provided invention disclosures for the various inventions claimed in the '076 publication. The undersigned asserts based upon first hand personal knowledge and professional activities on behalf of the inventors that Leigh Anderson and Jack Goodman are sole inventors of the invention recited in the claims of the instant application currently being examined.

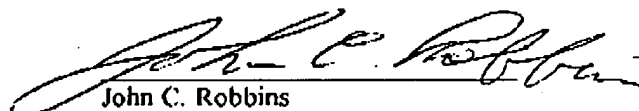
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Applicant requests that the rejection under 35 USC § 102(f) be withdrawn and the claims be allowed.

Respectfully submitted,

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